

## ABANDONED BARGE ACT OF 1992

JULY 31, 1992.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. JONES of North Carolina, from the Committee on Merchant Marine and Fisheries, submitted the following

### REPORT

[To accompany H.R. 5397]

[Including cost estimate of the Congressional Budget Office]

The Committee on Merchant Marine and Fisheries, to whom was referred the bill (H.R. 5397) to amend title 46, United States Code, to prohibit abandonment of barges, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Abandoned Barge Act of 1992".

#### SEC. 2. ABANDONMENT OF BARGES.

(a) IN GENERAL.—Part B of subtitle II of title 46, United States Code, is amended by adding at the end the following new chapter:

#### "CHAPTER 47—ABANDONMENT OF BARGES

"Sec.

"4701. Definitions.

"4702. Abandonment of barge prohibited.

"4703. Penalty for unlawful abandonment of barge.

"4704. Removal of abandoned barges.

"4705. Liability of barge removal contractors.

#### "§ 4701. Definitions

"In this chapter—

"(1) 'abandon' means to moor, strand, wreck, sink, or leave a barge of more than 100 gross tons unattended for longer than forty-five days.

"(2) 'barge removal contractor' means a person that enters into a contract with the United States to remove an abandoned barge under this chapter.

"(3) 'navigable waters of the United States' means waters of the United States, including the territorial sea.

"(4) 'removal' or 'remove' means relocation, sale, scrapping, or other method of disposal.

**"§ 4702. Abandonment of barge prohibited**

"(a) An owner or operator of a barge may not abandon it on the navigable waters of the United States. A barge is deemed not to be abandoned if—

"(1) it is located at a Federally- or state-approved mooring area;

"(2) it is on private property with the permission of the owner of the property; or

"(3) the owner or operator notifies the Secretary that the barge is not abandoned and the location of the barge.

**"§ 4703. Penalty for unlawful abandonment of barge**

"Thirty days after the notification procedures under section 4704(a)(1) are completed, the Secretary may assess a civil penalty of not more than \$1,000 for each day of the violation against an owner or operator that violates section 4702. A vessel with respect to which a penalty is assessed under this chapter is liable in rem for the penalty.

**"§ 4704. Removal of abandoned barges**

"(a) **AUTHORITY TO REMOVE.**—

"(1) **IN GENERAL.**—The Secretary may remove a barge that is abandoned after complying with the following procedures:

"(A) If the identity of the owner or operator can be determined, the Secretary shall notify the owner or operator by certified mail—

"(i) that if the barge is not removed it will be removed at the owner's or operator's expense; and

"(ii) of the penalty under section 4703.

"(B) If the identity of the owner or operator cannot be determined, the Secretary shall publish an announcement in—

"(i) a notice to mariners; and

"(ii) an official journal of the county in which the barge is located that if the barge is not removed it will be removed at the owner's or operator's expense.

"(2) **UNITED STATES NOT LIABLE.**—The United States and any officer or employee of the United States is not liable to an owner or operator for damages resulting from removal of an abandoned barge under this chapter.

"(b) **LIABILITY OF OWNER AND OPERATOR.**—The owner or operator of an abandoned barge is liable, and an abandoned barge is liable in rem, for all expenses that the United States incurs in removing an abandoned barge under this chapter.

"(c) **REMOVAL SERVICES.**—

"(1) **SOLICITATION.**—The Secretary may, after providing notice under subsection (a)(1), solicit by public advertisement sealed bids for the removal of an abandoned barge.

"(2) **CONTRACT.**—After solicitation under paragraph (1) the Secretary may award a contract. The contract—

"(A) may be subject to the condition that the barge and all property on the barge is the property of the barge removal contractor; and

"(B) must require the barge removal contractor to submit to the Secretary a plan for the removal.

"(3) **COMMENCEMENT OF REMOVAL.**—Removal of an abandoned barge may begin thirty days after the Secretary completes the procedures under subsection (a)(1).

**"§ 4705. Liability of barge removal contractors**

"(a) **LIABILITY.**—

"(1) **IN GENERAL.**—A barge removal contractor and its subcontractor are not liable for damages that result from actions taken or omitted to be taken in the course of removing a barge under this chapter.

"(2) **EXCEPTIONS.**—Subparagraph (1) does not apply—

"(A) with respect to personal injury or wrongful death; or

"(B) if the contractor or subcontractor is grossly negligent or engages in willful misconduct."

(b) **APPLICATION OF CERTAIN BARGES.**—One year after the date of enactment of this Act, the Secretary may assess a civil penalty under section 4703 against an owner or operator of a barge abandoned before June 11, 1992.

**SEC. 3. CLERICAL AMENDMENT.**

The analysis of subtitle II at the beginning of title 46, United States Code, is amended by inserting after the item relating to chapter 45 the following:

"47. Abandonment of barges ..... 4701".

#### SEC. 4. NUMBERING OF BARGES.

Section 12301 of title 46, United States Code, is amended—

- (1) by inserting "(a)" before "An undocumented vessel"; and
- (2) by adding at the end the following:

(b) The Secretary shall require an undocumented barge of more than 100 gross tons operating on the navigable waters of the United States to be numbered."

#### PURPOSE OF THE BILL

The purpose of H.R. 5397 is to address the environmental problems created when barges in excess of 100 gross tons are abandoned in the nation's waterways. Specifically, H.R. 5397 prohibits the abandonment of these barges, establishes penalties for abandonment, authorizes the Secretary of Transportation to remove abandoned barges, and requires the numbering of undocumented barges in excess of 100 gross tons. The Abandoned Barge Act fills legal gaps by supplementing the authorities contained in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. 9601-57 (CERCLA); the Oil Pollution Act of 1990, 33 U.S.C. 2701 et. seq. (OPA 90); and the Wrecked Vessel Act, 33 U.S.C. 414-416. H.R. 5397 does not preempt or supplant these Acts.

Under H.R. 5397, a barge would be considered abandoned when it is left unattended for longer than forty-five days. A barge located on private property with the permission of the owner or located at a Federally- or state-approved mooring site is not considered abandoned. A barge is not considered abandoned if the owner or operator notifies the Secretary of Transportation that the barge is not abandoned and of its location.

H.R. 5397 also authorizes the Secretary of Transportation to notify owners or operators of abandoned barges that they are obligated to remove the barge. The Secretary may then remove, or contract for the removal of, an abandoned barge if the barge owner or operator has failed to take remedial action within 30 days after receiving notice. If the owner or operator cannot be determined, the Secretary must publish announcements advising that unless the owner or operator takes action, the Secretary will take steps to remove the barge.

If the owner fails to remove the vessel, the Secretary may assess a civil penalty of not more than \$1,000 for each day of the violation, and hold the owner or operator responsible for the removal costs. The civil penalty may be assessed from the date of notice. For barges abandoned before June 11, 1992, the Secretary may assess a civil penalty commencing one year after enactment of this Act, after giving the required notice. This provision affords owners of currently abandoned vessels a reasonable time period to comply with the Act before a penalty is assessed.

H.R. 5397 establishes procedures for removal and addresses the liability of barge removal contractors. In addition, the United States and any officer or employee of the United States are not liable to an owner or operator for damages resulting from the removal of an abandoned barge under this Act.

## BACKGROUND AND NEED FOR LEGISLATION

Current law does not prohibit the abandonment of a barge as long as that barge does not obstruct navigation or create an immediate environmental hazard under CERCLA or OPA 90. The Coast Guard estimates that 600 barges are abandoned in or along the nation's waterways, and the Army Corps of Engineers estimates there may be up to 1,600 abandoned barges.

The General Accounting Office (GAO) found that abandoned barges along the coastal and inland waterways have fouled the marine environment with on-board pollutants and have often become illegal dumping grounds for hazardous materials. In some instances, after cleanup operations have been completed, illegal dumpers have broken into locked barges and refilled them with hazardous materials thereby requiring further cleanup expenditures. Pollution from these barges may endanger human life as well as the marine environment.

The Abandoned Barge Act would authorize the Secretary of Transportation to dispose of barges that do not pose an immediate pollution threat under CERCLA or OPA 90 but are potential environmental hazards. The Secretary of Transportation would have discretionary authority to remove barges that currently contain no pollution sources but that would make convenient receptacles for illegal dumping. The Army Corps of Engineers would retain its authority under present law to remove vessels that present a hazard to navigation under the Wrecked Vessel Act.

The Secretary of Transportation may contract for barge removal by a salvage company or another appropriate removal agent. H.R. 5397 is not intended to limit an agency's or individuals' present ability to use abandoned barges for ecologically advantageous projects, such as artificial coastal reefs. These uses continue to be strongly encouraged.

From January 1, 1988, through September 30, 1991, the Coast Guard investigated 96 incidents<sup>1</sup> in which abandoned vessels either spilled or could have spilled almost two million gallons of pollutants. Eighty-five percent of these incidents involved actual spills and all but 7,282 gallons were prevented from entering the marine environment. Fifty-one of the 96 investigated incidents required an expenditure of monies to clean up the contaminants. Vessel owners paid all costs in only six cases and partial costs in only five cases. The expenses for the remaining 40 cases were paid by the Federal government.

Historically, barges that use inland waterways have been exempt from documentation laws. A century ago, barges were typically made of wood and often disposed of after just one trip. Today, barges have a much longer economic life. Owners may choose to document barges for various reasons, such as to obtain a preferred mortgage on the vessel. About 27,000 barges are currently documented, but the Coast Guard estimates that 14,000 barges are not. Because of these exemptions, the Coast Guard cannot identify

---

<sup>1</sup> This number includes some incidents from vessels other than barges, such as recreational craft.

many owners of abandoned barges and hold them responsible for pollution and cleanup costs.

Often, disposal of a barge by abandonment is cheaper for the owner than proper scrap disposal. For example, two barges in New Orleans yielded about 260 tons of scrap steel, which had a value of \$2,900 but cost over \$300,000 for removal and disposal. Under present law, therefore, it may be economically advantageous to abandon a barge.

H.R. 5397 prohibits abandonment of barges, which is currently an industry practice. In order to facilitate the identification of the owners of abandoned barges in the future, the Act requires that all barges over 100 gross tons to be numbered. The Secretary of Transportation is given the flexibility to adopt either a state numbering and marking system or a Coast Guard approved system. The Committee directs the Coast Guard to adopt rules governing the numbering and marking procedure to ensure that markings are permanent and easily recognizable.

#### COMMITTEE ACTION

On May 29, 1991, the Subcommittee on Coast Guard and Navigation held a field hearing in New Orleans, Louisiana, to investigate the environmental damage caused by abandoned barges. Representatives of the following agencies testified: the United States Coast Guard; the Environmental Protection Agency; and the Louisiana Department of Environmental Quality.

On June 5, 1991, the Subcommittee on Coast Guard and Navigation requested the General Accounting Office to determine (1) the number of vessels that have been abandoned nationwide, (2) the extent of environmental problems caused by abandoned vessels and the associated costs, and (3) the adequacy of Federal laws and regulations on abandoned barges. Although the GAO report was not published until June 21, 1992, the GAO's testimony before the Subcommittee on Coast Guard and Navigation on June 10, 1992, was used in drafting H.R. 5397.

On June 10, 1992, the Subcommittee on Coast Guard and Navigation held a hearing to explore the adequacy of existing law, the adequacy of the proposed legislation, and the nature and magnitude of the abandoned barge problem. Representatives of the following agencies testified: United States General Accounting Office, United States Coast Guard, and the American Waterways Operators.

On June 15, 1992, Chairman Tauzin, Chairman Jones, and Mr. Fields introduced H.R. 5397, the Abandoned Barge Act of 1992.

The Subcommittee on Coast Guard and Navigation met in Markup Session to consider H.R. 5397 on June 18, 1992. Mr. Tauzin offered a technical amendment requiring a barge owner or operator to notify the Secretary that a barge left for 45 days or more is not abandoned. The amendment was adopted by voice vote. The bill, as amended, was approved by voice vote and ordered favorably reported to the Full Committee.

The Committee on Merchant Marine and Fisheries met in Markup Session on July 1, 1992. H.R. 5397 was approved by voice vote and ordered favorably reported to the Full House.

## SECTION-BY-SECTION ANALYSIS

### SECTION 1. SHORT TITLE

This section states that the Act may be cited as the "Abandoned Barge Act of 1992".

### SECTION 2. ABANDONMENT OF BARGES

This section amends Part B of subtitle II of title 46, United States Code, by adding a new chapter 47.

The new chapter is entitled "ABANDONMENT OF BARGES" and includes the following provisions.

#### *Section 4701. Definitions*

This section contains definitions of terms used throughout the new chapter.

"Abandon" means to moor, strand, wreck, sink, or leave for longer than 45 days a barge of more than 100 gross tons.

"Barge removal contractor" is defined as a person that enters into a contract with the United States to remove an abandoned barge.

"Navigable waters of the United States" are the waters of the United States, including the territorial sea. This definition is identical to that in the Oil Pollution Act of 1990 and the Clean Water Act.

"Removal" and "remove" means relocation, sale, scrapping, or any other method of disposal.

#### *Section 4702. Abandonment of barge prohibited*

A barge owner or operator is prohibited from abandoning a barge on the navigable waters of the United States. This section is designed to prohibit abandonment without interfering with a barge's normal day-to-day operation. A barge is not abandoned, however, if it is located at a Federally- or state-approved mooring area, is on private property with the permission of the property owner, or if the barge owner or operator notifies the Secretary of the barge's location, and of his intention not to abandon the barge. It must be moored more than 45 days before this notification would be required.

#### *Section 4703. Penalty for unlawful abandonment of barge*

This section permits the Secretary to assess a civil penalty of up to \$1,000 against an owner or operator for each day a barge is abandoned in violation of section 4702. The barge is also liable in rem for the penalty. The penalty may not be assessed until 30 days after the notification procedures under section 4704 are completed.

#### *Section 4704. Removal of abandoned barges*

The authority to remove abandoned barges, and the procedures necessary to exercise that authority, are set forth in this section.

This section provides that if the barge owner's or operator's identity can be determined, the Secretary must notify the owner or operator by certified mail that if the barge is not removed, it will be

removed at the owner's or operator's expense, and that a penalty may be assessed under section 4703.

This section provides that if the barge owner's or operator's identity is unknown, the Secretary must publish notice in "a notice to mariners" and "an official journal of the county in which the barge is located". The notice must advise that if the barge is not removed, it will be removed by the Coast Guard and the owner or operator, if subsequently identified, will be assessed the costs of removal and civil penalties. Removal of an abandoned barge may begin 30 days after the Secretary completes the notification procedures under this section.

The barge owner or operator, and the vessel, in rem, bear all liability for any expense incurred during removal of an abandoned barge. The United States, and any of its officers or employees, are not liable to an owner or operator for damages resulting from removal of an abandoned barge.

This section also provides for the removal of a barge by a contractor. Removal services may be solicited by public advertisement for sealed bids after notice is provided to the barge owner under this chapter. The Secretary may award a contract for removal and may condition that contract on the barge removal contractor (1) assuming all property rights in the barge and property on the barges and (2) submitting a plan for barge removal to the Secretary.

Finally, this section provides that the United States is not liable to the owner or operator of an abandoned barge for damages caused by removal of the abandoned barge. The United States may, however, be liable to other persons damaged by the removal of the barge.

#### *Section 4705. Liability of barge removal contractors*

This section limits the liability of barge removal contractors and their subcontractors when performing work under this chapter. A barge removal contractor is not liable for damages that result from actions taken or omitted in the course of removing a barge. This section's liability limitation does not apply if the contractor is grossly negligent or engages in willful misconduct. This section's liability limitation also does not apply with respect to personal injury or wrongful death.

This section provides further that one year after the date of enactment of this Act the Secretary may assess a civil penalty under section 4703 against an owner or operator of a barge abandoned before June 11, 1992.

### SECTION 3. CLERICAL AMENDMENT

The analysis of subtitle II at the beginning of title 46, United States Code, is amended by inserting a reference to new chapter 47.

### SECTION 4. NUMBERING OF BARGES

This section amends section 12301 of title 46, United States Code. It requires undocumented barges of more than 100 gross tons operating on the navigable waters of the United States to be numbered.

## INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(1)(4) of rule XI of the Rules of the House of Representatives, the Committee estimates that the enactment of H.R. 5397 will have no significant inflationary impact on prices and costs in the operation of the national economy.

### COST OF THE LEGISLATION

Clause 7(a) of rule XIII of the Rules of the House of Representatives requires an estimate by the Committee of the costs which would be incurred in carrying out H.R. 5397. However, clause 7(d) provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974.

### COMPLIANCE WITH HOUSE RULE XI

1. The Subcommittee on Coast Guard and Navigation held hearings on the abandoned barge problem on May 29, 1991, and June 10, 1992.

2. With respect to the requirement of clause 2(1)(3)(B) of rule XI of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, H.R. 5397 does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

3. With respect to the requirement of clause 2(1)(3)(D) of rule XI of the Rules of the House of Representatives, the Committee has received no report of oversight findings and recommendations from the Committee on Government Operations on the subject of H.R. 5397.

4. With respect to the requirement of clause 2(1)(3)(C) of rule XI of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 5397 from the Director of the Congressional Budget Office.

### CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
Washington, DC, July 30, 1992.

Hon. WALTER B. JONES,  
*Chairman, Committee on Merchant Marine and Fisheries, House of Representatives, Washington, DC.*

DEAR CHAIRMAN: The Congressional Budget Office has reviewed H.R. 5397, the Abandoned Barge Act of 1992, as ordered reported by the House Committee on Merchant Marine and Fisheries on July 1, 1992. We expect that implementation of H.R. 5397 would cost federal agencies less than \$1 million a year in appropriated funds. Because the bill could affect governmental receipts, it would be subject to pay-as-you-go procedures under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985. As a



result, the estimate required by clause 8 of House Rule XXI is attached.

H.R. 5397 would prohibit owners or operators of barges from abandoning their vessels on navigable waters of the United States and would establish penalties for any violations. The bill also would authorize the Secretary of Transportation to remove abandoned barges, after completing certain specific procedures. The barge owner or operator would remain liable for all federal removal costs, including amounts paid to federal contractors. In order to make it easier to identify barge owners, the bill would require the numbering of all undocumented barges of 100 gross tons or more.

Based on information provided by the United States Coast Guard (USCG), CBO estimates there are currently between 1,300 and 1,400 barges abandoned along navigable waterways. At present, federal agencies such as the USCG or the Army Corps of Engineers have authority to remove only those barges that create environmental hazards or obstructions to navigation. Typically, the cost to remove such vessels ranges from \$50,000 to \$100,000 although costs are much greater—about \$1 million—to remove barges if hazardous wastes or other pollutants are found onboard. The removal authority provided by H.R. 5397 would apply to more barges than does existing law, but we expect that few additional vessels would be removed by federal agencies as a result of this bill. Therefore, additional costs to the USCG and Corps of Engineers would probably be less than \$1 million a year, assuming appropriation of the necessary funds. Because most of the barges that are currently abandoned are undocumented and unnumbered, it would be unlikely that federal costs to remove these vessels could be recovered.

H.R. 5397 would impose a penalty of \$1,000 a day for abandoning a barge. Collection of such penalties could increase federal revenue, but CBO does not expect such collections to be significant.

Section 4 of the bill would require that undocumented barges of 100 gross tons or more be numbered. According to the USCG, this requirement would be carried out by the states under their existing vessel numbering programs. Any additional costs incurred by the states probably would be offset by fees paid by vessel owners.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Deborah Reis, who can be reached at 226-2860.

Sincerely,

ROBERT D. REISCHAUER,  
*Director.*

#### CONGRESSIONAL BUDGET OFFICE ESTIMATE <sup>1</sup>

The applicable cost estimate of this act for all purposes of sections 252 and 253 of the Balanced Budget and Emergency Deficit Control Act of 1985 shall be as follows:

<sup>1</sup> An estimate of H.R. 5397 as ordered reported by the House Committee on Merchant Marine and Fisheries on July 1, 1992. This estimate was transmitted by the Congressional Budget Office on July 30, 1992.

(By fiscal year, in millions of dollars)

	1992	1993	1994	1995
Change in outlays.....	( <sup>1</sup> )	-( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )
Change in receipts.....	0	0	0	0

<sup>1</sup> Not applicable.

## DEPARTMENTAL REPORTS

The Committee has not received any departmental reports on H.R. 5397.

## CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII by the Rules of the House of Representatives, changes in existing law made by the bill as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

## TITLE 46—SHIPPING

### Subtitle II—Vessels and Seamen

#### PART A—GENERAL PROVISIONS

Chapter	Section
21. General.....	2101
23. Operation of vessels generally.....	2301

#### PART B—INSPECTION AND REGULATION OF VESSELS

31. General.....	3101
33. Inspection generally.....	3301
35. Carriage of passengers.....	3501
37. Carriage of liquid bulk dangerous cargoes.....	3701
39. Carriage of animals.....	3901
41. Uninspected vessels generally.....	4101
43. Recreational vessels.....	4301
45. Fish processing vessels.....	4501
47. Abandonment of barges.....	4701

## CHAPTER 47—ABANDONMENT OF BARGES

Sec.

4701. Definitions.  
 4702. Abandonment of barge prohibited.  
 4703. Penalty for unlawful abandonment of barge.  
 4704. Removal of abandoned barges.  
 4705. Liability of barge removal contractors.

### § 4701. Definitions

In this chapter—

(1) "abandon" means to moor, strand, wreck, sink, or leave a barge of more than 100 gross tons unattended for longer than forty-five days.

(2) "barge removal contractor" means a person that enters into a contract with the United States to remove an abandoned barge under this chapter.

(3) "navigable waters of the United States" means waters of the United States, including the territorial sea.

(4) "removal" or "remove" means relocation, sale, scrapping, or other method of disposal.

#### § 4702. Abandonment of barge prohibited

(a) An owner or operator of a barge may not abandon it on the navigable waters of the United States. A barge is deemed not to be abandoned if—

(1) it is located at a Federally- or State-approved mooring area;

(2) it is on private property with the permission of the owner of the property; or

(3) the owner or operator notifies the Secretary that the barge is not abandoned and the location of the barge.

#### § 4703. Penalty for unlawful abandonment of barge

Thirty days after the notification procedures under section 4704(a)(1) are completed, the Secretary may assess a civil penalty of not more than \$1,000 for each day of the violation against an owner or operator that violates section 4702. A vessel with respect to which a penalty is assessed under this chapter is liable in rem for the penalty.

#### § 4704. Removal of abandoned barges

##### (a) AUTHORITY TO REMOVE.—

(1) IN GENERAL.—The Secretary may remove a barge that is abandoned after complying with the following procedures:

(A) If the identity of the owner or operator can be determined, the Secretary shall notify the owner or operator by certified mail—

(i) that if the barge is not removed it will be removed at the owner's or operator's expense; and

(ii) of the penalty under section 4703.

(B) If the identity of the owner or operator cannot be determined, the Secretary shall publish an announcement in—

(i) a notice to mariners; and

(ii) an official journal of the county in which the barge is located

that if the barge is not removed it will be removed at the owner's or operator's expense.

(2) UNITED STATES NOT LIABLE.—The United States and any officer or employee of the United States is not liable to an owner or operator for damages resulting from removal of an abandoned barge under this chapter.

(b) LIABILITY OF OWNER AND OPERATOR.—The owner or operator of an abandoned barge is liable, and an abandoned barge is liable in rem, for all expenses that the United States incurs in removing an abandoned barge under this chapter.

**(c) REMOVAL SERVICES.—**

(1) **SOLICITATION.**—The Secretary may, after providing notice under subsection (a)(1), solicit by public advertisement sealed bids for the removal of an abandoned barge.

(2) **CONTRACT.**—After solicitation under paragraph (1) the Secretary may award a contract. The contract—

(A) may be subject to the condition that the barge and all property on the barge is the property of the barge removal contractor; and

(B) must require the barge removal contractor to submit to the Secretary a plan for the removal.

(3) **COMMENCEMENT OF REMOVAL.**—Removal of an abandoned barge may begin thirty days after the Secretary completes the procedures under subsection (a)(1).

**§ 4705. Liability of barge removal contractors****(a) LIABILITY.—**

(1) **IN GENERAL.**—A barge removal contractor and its subcontractor are not liable for damages that result from actions taken or omitted to be taken in the course of removing a barge under this chapter.

(2) **EXCEPTIONS.**—Subparagraph (1) does not apply—

(A) with respect to personal injury or wrongful death; or

(B) if the contractor or subcontractor is grossly negligent or engages in willful misconduct.

**46 App. U.S.C. 12301****§ 12301. Numbering vessels**

(a) An undocumented vessel equipped with propulsion machinery of any kind shall have a number issued by the proper issuing authority in the State in which the vessel principally is operated.

(b) The Secretary shall require an undocumented barge of more than 100 gross tons operating on the navigable waters of the United States to be numbered.